

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ELK GROVE UNIFIED SCHOOL  
DISTRICT.

OAH Case No. 2014070389

ORDER GRANTING REQUEST FOR  
CONTINUANCE AND SETTING  
PREHEARING CONFERENCE AND  
DUE PROCESS HEARING

On November 24, 2014, the parties jointly filed a request to continue the dates in this matter. They represent that on August 13, 2014, they entered into an interim settlement agreement providing for the conducting of certain independent educational assessments; that those assessments are not yet complete, due to no fault of either party; and that the assessments will not be available to the parties until the end of January 2015 at the earliest. They also represent that one assessor may be recommending a non-public school placement, and that Parents cannot observe the possible placement until after the due process hearing date now scheduled. The apparent purpose of the request is to facilitate settlement.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Granted. All dates are vacated. The matter will be set as follows:

Prehearing Conference: March 2, 2015, at 3:00 PM  
Due Process Hearing: March 9-12, 2014, at 1:30 PM on March 9, 2014,  
and at 9:00 AM on March 10-12, 2014, and  
continuing day to day, Monday through Thursday,  
as needed at the discretion of the Administrative  
Law Judge.

IT IS SO ORDERED.

DATE: November 25, 2014

/s/

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CHARLES MARSON  
Acting Presiding Administrative Law Judge  
Office of Administrative Hearings